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**Local****Implementation  
of the  
Program**

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- ▶ *Zoning Ordinances*

## 1. Implementation Tools and Funding Opportunities

A number of implementation strategies or tools are available to the Town of Greece in order to take action on the projects identified in this LWRP. State and Federal grant programs exist which are geared to provide funding for projects that increase access to waterways, improve recreational opportunities, stimulate economic development, or preserve and/or interpret natural and historical features. A second tool involves the establishment of public/private partnerships to finance projects that benefit both sectors. Local funding strategies, including funding through the Town's operating or capital budget, and volunteer programs round out the opportunities at the local level.

### 1.01 State & Federal Grant Programs

#### *Community Development Block Grant Program (CDBG)*

The Town of Greece is an "entitlement community" under the CDBG program. This program entitles the Town to receive an annual Community Development grant from the U.S. Department of Housing and Development. CDBG funds can be used for a wide variety of activities, including: public facilities (i.e., streets, drainage, utilities, off-street parking, etc.); improvements to private properties (housing, business and industrial uses, etc.); and, to provide financial incentives (i.e, low cost loans) to stimulate the investment of private funds for economic development. CDBG monies can be used for land acquisition and design services as well as for capital projects. The federal legislation authorizing the CDBG program requires that the majority of the people benefitting from the use of program funds must have low or moderate incomes. The advantage of the CDBG program is that the Town does not have to compete for these funds. The Town Board can direct the use of these funds to meet locally established priorities.

#### *Environmental Protection Fund (EPF)*

The EPF is a State program that offers matching grant funds for waterfront planning and development projects, for recreation improvements and for historic preservation projects. EPF funds are administered by both the Department of State and the Office of Parks, Recreation and Historic Preservation. Funds can be used for planning and design services, for land acquisition and for the construction of project improvements. The two agencies that distribute EPF funding generally issue separate Requests for Proposals (RFP's). The EPF criteria for recreation projects favor proposals that would provide additional water-based recreational opportunities or access to water based sites. Historic preservation projects are limited to improvements to buildings and sites listed on either the State or National Register of Historic Places.

***New York State Canal Corporation***

The New York State Canal Corporation administers a grant program designed to improve public access to and use of the Erie Canal. Grants under this program are relatively small (generally between \$30,000 and \$60,000) and require a 50 percent local match. Requests for Proposals (RFP's) are generally issued at least once a year.

***Legislative Grant Program***

The New York State Legislature can make grant awards for important projects through the Legislature's annual budgeting process. There are no set program guidelines for a Legislative grant, except that the request should serve an important community need. Requests for legislative grants are made directly by the Town to its State Senator and/or Assemblyman. The State Legislators would champion the Town's request for approval by the Legislature. Legislative grants are awarded one time a year and are made in conjunction with the adoption of the State Budget.

***1996 Clean Water/Clean Air Bond Act***

The Bond Act passed by State voters in November of 1996 provides a variety of opportunities for communities to obtain grants for clean water/clean air projects. One specific component of the Bond Act that would apply to the Town's waterfront areas enables the State of New York to provide grants to a municipality for a park or heritage area project that: 1) develops, enhances or expands public access to a water body; 2) promotes water based recreation; 3) enhances the natural cultural or historic aspects of the water body; or, 4) preserves historically significant projects or sites. The New York State Office of Parks, Recreation and Historic Preservation administers this component of the Bond Act.

A second component of the 1996 Bond Act provides resources for the Department of Environmental Conservation and the Office of Parks, Recreation and Historic Preservation to purchase land or conservation easements for parcels that develop, expand or enhance water quality protection or public access to water bodies.

***Section 108 Loan Guarantee Program***

The U.S. Department of Housing and Urban Development administers the Section 108 Loan Guarantee Program under regulations that govern the Community Development Block Grant Program. This program may best be used to stimulate private investment for job creation projects by making loan funds available at favorable interest rates. The Town would apply to HUD for a Section 108 loan which, in turn, would be loaned to a private developer. The private developer would utilize 108 monies together with private funds to build the facility. Once operational, the developer would repay the 108 loan with interest to the Town. The Town would use these revenues to meet its obligations to HUD. HUD would likely require the Town to pledge future CDBG entitlement monies as a guarantee on its obligation to HUD if the developer were to default on its loan to the Town.

***Transportation Equity Act (TEA-21)***

The Federal ISTEA program, which includes grant opportunities, was recently re-authorized by Congress and re-named the Transportation Equity Act (TEA-21). The program provides a source of monies for a variety of transportation-related improvements, including the construction of trails that would improve public access to and use of the Erie Canal and Lake Ontario shoreline. In addition, the National Recreation Trails Fund Act, which was created and financed with ISTEA monies, provides 50/50 matching grant funds for trail improvements.

## **1.02 Local Funding and Public/Private Partnerships**

### ***Greece Capital Budget***

The Town of Greece prepares an annual capital improvements budget which schedules necessary Town expenditures for projects during the coming year. High priority projects related to recreational development, infrastructure and economic development can be wholly or partially funded through the capital program. The Town's Parks and Recreation Fund could serve as a source of local capital funds.

### ***Greece Operating Budget***

The Town of Greece also prepares an annual operating budget which schedules necessary Town expenditures for various staff, planning and "soft" expenses during the year. High priority projects related to staffing, planning studies, feasibility studies, safety, maintenance and public works projects can be wholly or partially funded through the Town's operating budget.

### ***Other Capital Budgets***

Other agencies, besides the Town, also prepare annual capital budgets for major construction and infrastructure projects. The Monroe County Department of Parks, the Monroe County Department of Transportation, the NYS Canal Corporation and the NYS Department of Transportation are examples of outside agencies that may be able to schedule lakeshore or canal related improvements in the Town of Greece.

### ***Other Operating Budgets***

Other agencies, besides the Town, also prepare annual operating budgets for maintenance, safety and planning projects. The Monroe County Sheriff's Department, the Monroe County Department of Parks, the NYS Canal Corporation, the NYS Police and the NYS Department of State are examples of outside agencies that may be able to schedule lakeshore or canal related services or improvements in the Town of Greece.

### ***Volunteer/Municipal In-Kind***

The Town of Greece, other public works or service oriented agencies and volunteers can offer indirect or direct assistance to complete waterfront related projects. Staff and employees in a variety of public agencies can offer vast manpower resources. Local businesses can offer manpower and materials for waterfront projects. This funding category is only limited by one's imagination.

### ***Public/Private Partnerships***

Public/private partnerships are an important implementation tool would enable the Town to share the cost of important projects with the private sector which will likely benefit from the public investment of funds. Under such arrangements, the Town and the private developer can capitalize on each other's resources and assets to undertake a project which would not be possible with public or private funds alone.

For example, public funds, labor and equipment may be utilized to provide basic infrastructure for a potential development area. The construction of infrastructure such as roadways, utilities, or parking, could serve as a catalyst for new business development. Private interests would occupy the land and construct the necessary facilities to attract people to the area for commercial or recreational purposes. In this way the Town can strategically use public funds to stimulate economic development.

Many of the State and Federal grant programs encourage the use of public/private partnerships as a way to stretch public dollars and stimulate private investment. The existence of public/private partnerships are often included among the selection criteria or rating scale for grant programs. The use of public/private partnerships, therefore, also increases the likelihood that grant monies will be awarded from outside sources.

## 2. Lead Responsibilities and Funding Matrix

Chapter 5 of the LWRP identifies a number of potential projects to enhance the Lake Ontario and Erie Canal waterfront areas which could be implemented by the Town, by the private sector or through public/private partnerships. Implementation of these projects primarily hinges upon the public or private entity obtaining the necessary funding. The grant programs described above have specific eligibility requirements and priority rating schedules that would assist the Town in determining which funding source is most appropriate for a proposed project. The potential for success in receiving funding for a particular project is generally enhanced if the project is listed in an approved LWRP and/or other officially adopted public planning document, as such documentation establishes the local commitment to the project.

The following matrix lists the projects recommended in the Town of Greece Local Waterfront Revitalization Program and identifies potential grant programs and funding mechanisms for implementation.

# **Town of Greece LWRP Project List and Funding Matrix**

	CDBG	EPF (OPRHP and LWRP)	NYS Canal Corp. Grant Prog.	Legislative Grant Program	1996 Bond Act	Section 108 Loan Guarantees	TEA-21	Greece Capital Budget	Greece Operating Budget	Other Capital Budgets	Other Operating Budgets	Volunteer/Municipal In-Kind	Public/Private Partnerships	Project Horizon Short, Medium, Long Term
<b>Leadership</b>														
Organizational Framework												X		S
<b>Land Use</b>														
Master Plan Update									X					S
Zoning Ordinance Revisions									X					S
Braddock Bay Fish & Wildlife Manage. Plan Update									X		X			M
Northrup Creek Relocation Feasibility Study									X					M/L
<b>Water Surface Use &amp; Harbor Management</b>														
Harbor Management Plan		X							X					S
Docking Ordinance									X					S/M
Dredging Plan									X					S/M
Navigation Aids				X						X				S/M
Braddock Bay Shoreline Protective Feature				X						X				M/L
<b>Preservation &amp; Conservation</b>														
Open Space Plan									X					M/L
Scenic Resource Design Standards									X					M/L
Braddock Bay Natural Heritage Area & Environ. Ctr.	*								X					M/L
Erie Canal South Natural Area	*							X					X	L
<b>Public Access, Recreation &amp; Education</b>														
Lake Ontario Multi-Use Trail System/Trail Heads	*	X					X							S/M
Lake Ontario Fishing Access Points	*	X												S/M
Lake Ontario Marinas and Boat Launches	*	X											X	M/L
Long Pond Access Center	*	X						X						S
Roses Marsh Access Center	*	X						X						L
Beatty Point Nature Observatory	*	X						X						S/M
Seaway Trail/Braddock Ponds Gateway Centers	*	X						X		X				M/L
Erie Canal Multi-Use Trail System/Trail Heads	*	X	X				X							S/M
Erie Canal Fishing Access Points	*	X												S/M
Henpeck Park Canal Access Center	*	X	X					X						S
Erie Canal Marinas and Boat Launches	*	X	X										X	M/L
Greece Port Promenade & Pedestrian Bridges	*	X	X										X	M/L
Erie Canal Community Boathouse	*		X					X						M/L
Greece Canal Park	*									X				M/L
Erie Canal Visitors Center	*		X					X						M/L
Junction Lock Historic Site & Canal Interpretation	*		X					X						S/M
<b>Circulation, Mobility &amp; Transportation</b>														
Edgemere Drive Streetscape Improvements	*			X										L
Access to Lake Ontario Business/Industrial Lands						X							X	L
Lexington Avenue Extension										X				L
Erie Canal Scenic Byway & Alternates			X							X				L
<b>Economic Development</b>														
KPV/KPY Acquisition								X					X	S

<b>Key:</b>	Eligible	
	Most Feasible Funding Source(s)	X
	Ineligible or Unlikely Candidate	
	Depends on Low/Mod Benefit	*

<b>Project Horizon :</b>	
Short = 1-3 Years	S
Medium = 1-5 Years	M
Long Term = 1-10 Years	L

### 3. Zoning Regulations

In addition to implementing specific projects, the Town can effectively utilize zoning controls to influence the type of development which occurs in its waterfront areas. Zoning regulations, including use restrictions, lot size, setbacks, and coverage requirements, and design or architectural standards, allow the Town to establish an overall tone for an area as well as to provide an appropriate setting for the projects it would like to see implemented. No changes are proposed to the language of existing zoning districts. In support of the Zoning Ordinance, the Town also has a Site Plan Review Ordinance and a Subdivision Ordinance. The Town's Planning Board and Environmental Board are responsible for the management of those critical review laws. The Town has developed procedures to insure a comprehensive review of development projects.

The Town's Zoning Ordinance is found in Chapter 21 I of the Greece Town Code. The Ordinance includes 16 zoning districts, including:

- ▶ Single Family Residential (4 districts),
- ▶ Cluster Open Space,
- ▶ Multiple Family Residential (2 districts),
- ▶ Central Health Care,
- ▶ Residential/Professional Office,
- ▶ Professional Office,
- ▶ Restricted Business,
- ▶ General Business,
- ▶ Mixed Use,
- ▶ Light Industrial,
- ▶ General Industrial, and,
- ▶ Public Land.

In order to implement the recommendations contained in this LWRP, four new waterfront-related districts are proposed. The creation of these districts will require the Town Board to amend the existing Zoning Ordinance and Map. The four waterfront-related districts, one of which is an overlay district, and the waterfront area in which they are proposed, are described below:

#### Greece Port Development District (Erie Canal):

To encourage a desirable mix of recreational, business, and residential uses which complement each other and take advantage of the unique location and characteristics of the Erie Canal.

#### Erie Canal Overlay District (Erie Canal):

To enhance the visual and historic resources along the Erie Canal and to protect sensitive ecological areas.

#### Business Waterfront District (Erie Canal, Lake Ontario):

To allow a mix of commercial and industrial uses which can take advantage of the proximity to waterfront locations and to provide for public access, recreational opportunities, and tourist services in these locations.

#### Lake Ontario Cluster District (Lake Ontario):

To encourage the preservation of open space and the protection of sensitive environmental resources and wildlife habitat in remaining developable areas along the Lake Ontario shoreline.

Each of these districts and their proposed locations are described further in the following sections. The proposed regulations for the new districts, which would be added to the existing Zoning Ordinance, are included as an attachment to the LWRP.

### **3.01 Greece Port Development District (GPDD)**

The development of a Greece "port" is an important recommendation of the LWRP. As previously described, the objective is to encourage the development of a recognizable destination or "hub of activity" along the Canal in the Town of Greece. This area would include a mix of commercial, residential, and recreational uses which would attract residents and visitors to the area to stroll, shop, rent a boat, or patronize a restaurant or a variety of shops.

Permitted uses would include retail, residential, restaurants, lodging/hotel (including bed and breakfasts), office, commercial, institutional and associated parking. In addition, recreational uses, such as boat docking and launching facilities, restrooms and showers, visitor information center, trailheads, parks, picnic areas, open space, and the like, would be permitted.

The location of the Greece Port Development District, as shown on Figure #, would be along Long Pond Road north and south of the Canal. Most of the district would lie to the west of Long Pond Road. The majority of this area is currently zoned as General Industrial and Restricted Business, with smaller portions included in Professional Business, General Business and Residential districts.

As the Town's goal is to create an exciting, active port, which is both visually appealing and attractive to visitors, the proposed zoning regulations give the Planning Board additional oversight with regard to building scale, design standards, and architectural features. Through the use of architectural standards, for example, the Town can promote a "Canal motif" for the building facades which face the waterfront. In addition, the regulations provide flexible dimensional requirements, including lot sizes and setbacks, which would be determined during site plan review.

The merits of creating a Greece Port Development District, rather than using the Town's existing Mixed Use District, was analyzed during the LWRP process. The WDD provides for a number of critical waterfront-related features, which are not addressed by the Mixed Use District, including: the flexible design standards and Planning Board oversight discussed above; recreational and marine-related facilities; safeguards for shoreline features, views, and environmentally sensitive areas; public access to the Canal and associated trail systems; and, retention of natural vegetative buffers. The creation and implementation of the Waterfront Development District would improve the Town's opportunities to meet the development goals established for this area.

### **3.02 Canal Overlay District**

The Town is committed to protecting a scenic corridor along the Erie Canal in accordance with regional and State Canal plans and goals. In order to achieve these goals, the LWRP recommends that the Town of Greece establish a Canal Overlay District. The purpose of the Canal Overlay District would be to provide a consistent level of protection of the visual, environmental and historic resources along the length of the Canal.

The Canal Overlay District would be located along the entire length of the Canal in Greece with the exception of the area included in the Waterfront Development District. The boundaries of the Overlay District, which are tied to property boundaries or roads, are shown on Figure #. North of the Canal, the district boundary generally follows Ridgeway Avenue west of Long Pond, and is tied to parcel boundaries

west of Elmgrove Road. South of the Canal the boundary generally follows the Greece-Gates town line and Ridgeway Avenue (west of Elmgrove Road). East of Long Pond Road, the southernmost portion of Canal Ponds would be included, as well as the Canal frontage north of the Greece-Gates town line.

The existing zoning districts which would be included as underlying districts within the Overlay District include General Industrial, Restricted Business, Professional Business, Residential, and Public Land. The underlying districts would remain in place and the existing use regulations would not be changed. The Overlay District would primarily be concerned with the maintenance of vegetation, building setbacks, erosion control, land-use compatibility, signage, and protection of sensitive historic and environmental resources.

The purpose of the Canal Overlay District would be to encourage the maintenance of a green, undeveloped corridor along most of the Town's Canal waterfront. The Waterfront Development District along Long Pond Road has been excluded from the Canal Overlay District as it is envisioned to be a more lively, urbanized area with buildings and promenades immediately fronting upon the Canal.

### ***3.03 Business Waterfront District***

The Business Waterfront District has been proposed to meet the Town's needs for additional commercial and industrial development in proximity to waterfront areas. Some of the Town's most important industrially zoned areas are located along the Erie Canal and the Lake Ontario shoreline. In order to meet the Town's economic development needs and to provide for future growth, opportunities for industrial and commercial development must be maintained. However, the Town also recognizes the important recreational, public access and open space resources that exist along the waterfront and does not want to jeopardize the attractiveness or visitor-friendly nature of these areas with uncontrolled or unsightly industrial and commercial uses.

As a result, the LWRP recommends that the Town of Greece establish an Business Waterfront District to allow a mix of commercial and industrial uses which can take advantage of the proximity to waterfront locations and also to provide for public access, recreational opportunities, and tourist services in these locations.

The Town's largest remaining concentration of industrially zoned land is located south of the Canal and west of Long Pond Road. Eastman Kodak Company, which currently owns these parcels, is looking to divest of them. The Office/Industrial Waterfront District would be applied to the properties which are currently zoned General Industrial. Such a designation would maintain the use of this land for industrial or commercial purposes, while also providing increased access to the Canal. Adjacent properties currently included in residential or business zoning districts would not be included in the Office/Industrial Waterfront District.

The Town's goal for the lakeshore area is to rejuvenate existing industrial and commercial properties located north of the Lake Ontario State Parkway and east of Round Pond. A Business Waterfront District would be created in this area to include lands currently zoned as General Industrial as well as several adjacent parcels which are currently included in existing business districts. The implementation of this recommendation would establish a smoother and more functional boundary for commercial/industrial uses in this area.

The Business Waterfront District along the lakeshore has been conceived to enable the Town to enhance local economic development opportunities and to capitalize on increased visitor traffic associated with the planned Fast Ferry service between Toronto, Ontario, and Rochester, NY (Charlotte area). Given the location adjacent to the City line and the ease of access along the Lake Ontario State Parkway, the Town is well-positioned to take advantage of new business development opportunities associated with Fast Ferry service.



As described above, the Business Waterfront Districts along the Erie Canal and Lake Ontario shoreline would primarily replace existing General Industrial districts as well as small Restricted Business districts. Uses currently permitted in the General Industrial and General Business districts would be allowed in the new district with the exception of potentially hazardous uses. Hotels, restaurants, vehicle rental, and shipping operations would be allowed with a special use permit. Provisions have been developed to ensure public access to waterfront areas and trails, to protect views, and to allow for passive recreational uses, as appropriate, including hiking/biking trails, green space, picnic areas, shared parking, etc.

### ***3.04 Lake Ontario Cluster District***

One of the Town's greatest waterfront assets is the large extent of public land associated with the wetlands and ponds along the Lake Ontario shoreline. The Braddock Bay Fish and Wildlife Management Area, including approximately 2,500 acres, is jointly administered by the Town of Greece and the NYS Department of Environmental Conservation (DEC). The Braddock Bay Fish and Wildlife Management Plan, created in 1982, assures that the valuable wetlands are effectively protected, while also providing for the careful development of facilities which will enhance public recreational and educational opportunities. Most of the Town's waterfront area is included within the Braddock Bay Fish and Wildlife Management Area, and is used for passive recreation purposes such as bird-watching, hiking and picnicking.

It is the Town's intention to maintain a relatively low density on as much of the remaining developable land as possible outside the Braddock Bay Fish and Wildlife Management Area. This would primarily affect several large, undeveloped parcels west of Braddock Bay and the Lake Ontario Parkway. The remainder of the Town's waterfront is already developed with small, distinct residential communities, including Grandview Heights, Braddocks Heights, and Braddock Point.

The LWRP recommends the establishment of the Lake Ontario Cluster District, a modified version of the Town's existing Cluster Open Space (COS) district, in order to achieve these goals. The Town's existing Cluster Open Space (COS) district is currently a floating district and not assigned to any specific area of the Town. The Lake Ontario Cluster District would not be a floating district, but would be assigned to the large, developable parcels in the extreme northwestern corner of Town, primarily west of Braddock Bay (see Figure #). These parcels are currently zoned Single Family Residential SF1 and require a minimum lot size of 18,000 square feet (between 1/3 and 1/2 acre).

The purpose of the Lake Ontario Cluster District is to protect the sensitive ecological areas within the district, as well as within the nearby Braddock Bay Fish and Wildlife Management Area, from the adverse impacts of development. This district includes provisions to require the clustering of units, minimum setbacks from waterways and sensitive areas, and erosion and sedimentation control measures. The regulations have been conceived to preserve open space and wildlife habitat, protect views, decrease the length of services (roads, utilities), and maintain of a relatively low density of development in the area.

The Lake Ontario Cluster District requires that a minimum of 40 percent of the developable property on the site be set-aside for open space or as forever wild. The regulations require that this land, or a conservation/preservation easement on the land, be conveyed to the Town, the State (i.e. the New York State Office of Parks and Recreation or the Department of Environmental Conservation) or a private preservation oriented group, such as a land trust. If the land is to be conveyed to a public agency, a conservation/preservation easement must be placed on the land prior to conveyance to ensure that the public agency does not eventually use the land for purposes other than for open space or preservation.

The Lake Ontario Cluster District is not designed to reduce the number of units that would currently be allowed under the existing zoning. The regulations do, however, require the calculation of a maximum density, based on the "carrying capacity" of the land. The provisions also establish minimum thresholds (i.e. the number of units or the number of acres to be developed), that would "trigger" mandatory clustering of development. As a result, a property owner is still entitled to develop a single residence or several residences without the need to cluster.

All the permitted and special permit uses currently allowed within the SF1 district are permitted in the Lake Ontario Cluster District, with the exception of golf courses. This use has been removed from the list of special permit uses in order to protect waterways and wetlands from excessive pesticides and fertilizers.

## 4. Management Structure to Implement the LWRP

In order to provide a LWRP focus within the community, the Town will enact a Local Consistency Review Law that provides a process for the review of actions within the Town for consistency with the LWRP. The procedures for review are also identified in the Local Consistency Review Law.

The purpose of the Local Consistency Review Law is to provide a framework for agencies of the Town to consider the policies, purposes, and common interests contained in the Town's LWRP when reviewing applications for actions or direct town actions and to insure that such actions are consistent with those policies and purposes. The procedures for consistency review are intended to ensure that all policies of the Town's LWRP are considered as early as possible in the formulation of a proposed action. Timing for review by the Planning Board has been established so as to avoid delays in the permitting process.

### 2. Procedures to Ensure Local Compliance

LWRP compliance procedures are distinct but integrally tied to the State Environmental Quality Review procedures and are limited to Type I actions as defined in the SEQRA regulations.

All town agencies contemplating a direct action within Greece's coastal areas or receiving an application for approval (in the form of a permit, license, etc.) of an action by others shall follow the review procedures set forth on the Town's Local Consistency Review Law and SEQRA:

- Whenever a proposed Type I action is located within the Town's Coastal Areas, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the Town's LWRP policy standards and conditions.
- Each agency of the Town shall be responsible for making its own consistency determination.
- Where more than one town agency is involved in reviewing a proposed action, the lead agency (as defined in the SEQRA regulations) shall be responsible for making the determination that the proposed action is consistent with the LWRP policy standards and conditions.
- The consistency determination process shall be coordinated with the environmental review process set forth in SEQRA to the greatest extent possible.
- Whenever an agency receives an application for approval of funding of a Type I action or as early as possible in the agency's formulation of a direct action to be located in a Coastal Area, the applicant or agency shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review of the proposed action.

- The agency shall refer a copy of the completed CAF to the Planning Board within ten (10) days of its submission, and prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action with the Town's LWRP.
- After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards and conditions.
- The Planning Board shall render its written recommendation to the agency within thirty (30) days following referral of the CAF from the agency. The recommendation shall indicate whether, in the opinion of the Planning Board, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions. The Planning Board shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.
- After receipt of the Planning Board recommendation, the agency shall make its determination of consistency based on that recommendation, the CAF, SEQRA documents, the application and project documentation, and relevant recommendations from other agencies. The agency shall have the authority in its finding of consistency to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with the Town's Waterfront Consistency Review Law.

2. Procedures for Reviewing State and Federal Actions

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs Are In Effect

a. Purposes of Guidelines

- (1) The Waterfront Revitalization of Coastal Resources and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYSRR Part 600) require certain State agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- (2) The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- (3) The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

b. Definitions

Action means:

- (1) A Type 1 or Unlisted action as defined by the State Environmental Quality Review Act (SEQRA).
- (2) Occurring within the boundaries of an approved LWRP; and
- (3) Being taken pursuant to a state agency program or agency which has been identified by

the Secretary of State as likely to affect the policies and purposes of LWRP.

Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

- (1) For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
- (2) That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable;
- (3) That will result in an overriding regional or statewide public benefit; and
- (4) That will advance one or more of the other coastal policies.

Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water, and man-made resources, proposed land uses and specific projects that are essential to program implementation.

c. Notification Procedure

- (1) When a state agency is considering an action described in (b) above, the state agency shall notify the affected local government.
- (2) Notification of a proposed action by a state agency shall fully describe the nature and location of the action; shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through any alternative procedure agreed upon by the state agency and local government; and should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.
- (3) If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

d. Local Government Review Procedure

- (1) Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- (2) If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

- (3) If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- (4) If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in (e) below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

e. Resolution of Conflict

The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP.

- (1) Upon receipt of notification from a local government that proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
- (2) If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The State agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- (3) If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
- (4) Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
- (5) If agreement among all parties cannot be reached during this discussion, the Secretary shall, within fifteen days, notify both parties of his/her findings and recommendations.
- (6) The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

Procedural Guidelines for Coordinating New York State Department of State and Local Waterfront Revitalization Program Consistency Review of Federal Agency Actions

a. Direct Actions

- (1) After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the local coordinator of an approved LWRP and to other interested parties.
- (2) This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
- (3) The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has no opinion on the consistency of the proposed direct federal agency action with the LWRP policies.
- (4) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
- (5) A copy of DOS' agreement or disagreement letter to the federal agency will be forwarded to the local program coordinator.

b. Permit and License Action

- (1) DOS will acknowledge receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
- (2) Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss:
  - (a) the need to request additional information for review purposes; and
  - (b) any possible problems pertaining to the consistency of a proposed action with the LWRP policies.
- (3) When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
- (4) Within thirty (30) days of receiving the requested information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reason why a proposed action may be inconsistent or consistent with the LWRP policies.

- (5) After that notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has no opinion on the consistency of the proposed action with the LWRP policies.
- (6) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of concurrence or objection to the applicant.
- (7) A copy of the DOS concurrence or objection letter to the applicant will be forwarded to the program coordinator.

c. Financial Assistance Actions

- (1) Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
- (2) DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgment to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
- (3) The review period will conclude thirty (30) days after the date on DOS letter of acknowledgment or receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
- (4) The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has no opinion on the consistency of the proposed financial assistance action with the LWRP policies.
- (5) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS consistency decision.
- (6) A copy of DOS consistency decision letter to the applicant will be forwarded to the program coordinator.